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COPYRIGHT LAW REVISION

Since 1963, as one of forty organization members of the Ad Hoc Committee on Copyright Law Revision, the Association for Childhood Education International has been part of a coordinated effort to protect education's needs and interests in the revision of the U.S. Copyright Law. The Ad Hoc Committee seeks to obtain a copyright law that would make teaching and learning materials as accessible as possible without affecting the potential market for such materials.

Successive attempts at revision and updating of the present law, enacted in 1909, have consistently failed. The proposed legislation puts much greater emphasis on the rights of the proprietors of copyrighted works than on the rights of the consumers/users. The Ad Hoc Committee seeks a fair balance between the rights of both. It recognizes that teaching is no longer confined to the use of a single textbook, that creative teachers need bits and pieces of all sorts of written, pictorial and graphic materials geared to "the teachable moment."

Among the chief areas of concern are:

(1) Fair Use: In the proposed new revision bill, for the first time statutory recognition is made of the doctrine of "fair use." This doctrine is now to be written into law and will no longer depend merely on judicial interpretation of the courts; the "fair use" statute will also recognize for the first time that there is some right of "copying" for purposes of teaching, scholarship and research. However, because of ambiguities about appropriate rights of reproduction arising out of the Commissioner's opinion in *William & Wilkins vs. the U.S.,* the concept of "fair use" is placed in jeopardy.

(2) Limited Educational Exemption: A "not-for-profit" exemption exists in the present law which, when combined with the "fair use" provision, gives teachers added certainty that any incidental or minor copying will not be considered an infringement. In the proposed law, this not-for-profit exemption has been eliminated. To offset this, the Ad Hoc Committee recommends the addition of a limited educational exemption. The recommendation reads: "Notwithstanding other provisions of this act, nonprofit use of a portion of a copyrighted work for noncommercial teaching, scholarship and research is not an infringement of copyright." Owing to the uncertainties created by *Williams & Wilkins* and the consequent unreliability of "fair use" in providing necessary protection, the Ad Hoc Committee believes that it is essential for the copyright law to provide the basis for appropriate rights of limited reproduction for teaching, scholarship and research.

With regard to the proposal for a clearinghouse or statutory licensing system, the Ad Hoc Committee is convinced that the need for advance clearance and payment of fees would greatly inhibit teachers in using imagination and ingenuity in the use of materials. It contends that, to be acceptable, a clearinghouse must be over and above "fair use"—not in lieu of "fair use"—and must be free from "administrivia."

Looking toward reintroduction of legislation in the 93d Congress, the Committee urges individuals to support its efforts by writing to or visiting their Congressmen and Senators.—Lucy Prete Martin, *ACEI Representative to Ad Hoc Committee on Copyright Law Revision.*